

216 IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CWP No.12622 of 2018 (O&M).
Date of Decision: 18.07.2019

Bhupinder Singh

..... Petitioner

Versus

Union of India and others

..... Respondents

CORAM: HON'BLE MR.JUSTICE JITENDRA CHAUHAN

Present:- Mr. Vivek K. Thakur, Advocate,
for the petitioner.

Mr. Aditya Sanghi, Advocate,
for respondent Nos. 1 & 2.

Ms. Bhawna Gupta, DAG Punjab.

JITENDRA CHAUHAN J.

Prayer in the present petition filed under Articles 226/227 of the Constitution of India, *inter alia*, is for issuance of a writ of Mandamus, directing respondent Nos.1 & 2 to issue Passport to the petitioner.

It is contended that the petitioner applied for the passport through a travel agent at Jalandhar who submitted the Birth certificate of the petitioner to complete the documents and the petitioner was issued passport No. M-2635659. The said birth certificate was found to be fake, therefore, respondent No.2 wrote a letter to SSP, Gurdaspur to take action and accordingly, an FIR No.175 dated 03.11.2014 under Sections 420, 465, 467, 468, 471 IPC was registered at Police Station

City Gurdaspur. It is further contended that the matter was inquired into and the petitioner was found innocent. Consequently, a cancellation report in the matter was submitted before the Illaqa Magistrate. However, the learned Illaqa Magistrate has ordered that the matter be re-investigated. It is further contended that though, re-investigation has been ordered but as on date, there is no proceeding pending before any Court of competent jurisdiction. It is asserted that all the particulars reflected by the petitioner in the application are as per record. It is submitted that the petitioner being not well conversant with the documentation, the same were submitted through a local travel agent. It is further asserted that the right of the petitioner to hold a passport cannot be taken away merely on the ground of the registration of the FIR.

On the other hand, learned counsel for respondent Nos.1 and 2 refers to Section 6(2)(f) of the Passport Act, 1967, which empowers the Passport authorities to refuse to issue passport to a person against whom criminal proceedings are pending before a competent Court in India.

Learned State counsel submits that the matter is being re-investigated.

Heard.

This Court, while dealing with a similar controversy in ***Sahib Jaskaran Singh Vs. Union of India and others (P&H), 2016***

(2) R.C.R. (Criminal) 798, has held as under:-

“It appears that the passport of the petitioner is not being released solely on the ground of pendency of FIR No.238 dated 03.09.2012 against him. The question to be considered is whether a citizen can be denied the passport merely on the ground that a criminal case is registered against him.

*This very question was considered by this Court in **Daler Singh Vs. Union of India and ors CWP No.12143 of 2015.***

Taking note of the fact that as per Sections 6(2) and 10 (3) of the Passports Act, 1967, a passport can be refused or revoked or cancelled on the ground 'that proceedings in respect of an offence alleged to have been committed by the applicant are pending before a criminal court in India', and that proceedings in respect of a criminal case can be said to be pending before a criminal court only when cognizance has been taken by the criminal court, it was held that a passport cannot be refused or cancelled only on the ground of registration of an FIR.

In the present case, as per the pleadings of the parties, the petitioner's passport is not being released merely on the ground of pendency of the FIR and that the cancellation report submitted by the police has not yet been accepted by the Trial Court. Clearly, this is not a ground for which the passport can be refused or cancelled or impounded.”

Considering the fact that as on date, there is no proceeding pending against the petitioner, the respondents are directed to issue

passport to the petitioner, if there is no other legal impediment.

However, in case the challan is submitted in the present FIR, petitioner shall not leave the country without the written permission of the trial Court.

Disposed of.

18.07.2019.

SN

(JITENDRA CHAUHAN)
JUDGE

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No